

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8951 OF 2005

Raees Ahmed Khurshid Ahmed

...Petitioner

Versus

Malegaon Municipal Corporation & Ors.
Respondents.

...

Mr. R.S. Apte with Mr. N.R. Bubna for the Petitioner

Mr. C.R. Sonawane, Assistant Government Pleader, for the
State

**CORAM: V.G. PALSHIKAR, Ag.C.J., &
D.B. BHOSALE, J.**

DATE: DECEMBER 22, 2005.

P.C.:-

1. By this petition, the petitioner seeks a direction to the respondent-Corporation to restrain itself from recovering Octroi in the manner in which they are doing.
2. Reliance is placed on the judgment of this Court (Aurangabad Bench) in Writ Petition No. 3009 of 2005 (*Hemant S/o. Sudhakar Madane & Ors. v. The State of Maharashtra & Ors.*) dated 29th June, 2005, by which it is held that such recovery is not permissible in law.
3. Thereafter, a representation was made to the Municipal Corporation of Malegaon, stating that the judgment is confined only to the Corporations of Jalgaon

and Ahmednagar. Apparently, such observation is not tenable. In any case, this petition can be conveniently disposed of by directing the respondent-Corporation to decide the representation made by the Commissioner on 1st December, 2005 *de novo*, without considering the earlier communication dated 29th November, 2005 in the light of the judgment mentioned above, as early as possible, preferably in six weeks. The petition is accordingly disposed of.